App.F.IX-4

P-39

1925.

File No. 25-24

Previous References (9. T.)

Serial Nos. 1-6.

9. T 1-22-21
- ar 61-23-4.

Later references.

9. T. 6. 26: 1645
9 T' 51-26-31
9. T. 38-31-1 to 8.
9. T. 2-34-1 to 7.
9. T.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for August 1926.

SUBJECT

Memorial of Excise contractors & other merchants complaining against the working of the Income tax Regulation.

5 NO: FF 28 dt 2.7.26
To. The Commissioner of 9T.

Approves of his suggestions & requests him to take action to revise the present circular.

G. R. S. 11] 1924

GENERAL AND REVENUE SECRETARIAT.

(Income Tax

NOTES.

File No

FILE HEADING.

Memorial of Excise Contractors & other merchants complaining against the working of the I.T. Regn.

From

Mr K. Nettkallappa & Sons, Bangalore

No. ~~9 Oct 24~~ Dated 9.10.24 Received in Branch 3.11.24

Diary No. 161	Enclos. - Spare Copies. -	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Pray that their several grievances set forth in the memorial may be enquired into & redressed.

NOTES AND ORDERS.

Subd. Reference is invited to the resolutions of the Grain merchants' Association of Bangalore in 1922 & the reply of the Commr thereon, contained in I.T file 27-22 part of.

2 The Excise Contractors also complain

NOTES—First Sheet.

Serial No.

in oct 1922 that the assessment on turn over basis causes hardship & the same should be made on the examination of accounts produced by them. On a report called for on the memorial, the Commr forwarded to Govt. a copy of his circular disposing of the matter. He has directed therein that whenever accounts are maintained properly, they may form the basis of assessment & the profits of the Contractors may be taken at 10 percent for arrack & 20 per cent for toddy on the rentals paid to Govt. (Vide D.T file 1-22 post ult).

3 A statement shewing the several complaints now made with the existing practice or order in respect of Each is attached hereto for orders.

4 As most of them have been disposed of, it is for consideration whether a report need be called for now from the Commr. Subd.

KW 4/11.

P.T.O.

NOTE—Contn. Shee

General and Revenue Secretariat.

G.T. File No. 1401 — 3 (63) of 19 24

Serial No.

5 Each point in the petition is noted upon in the tabular Statement appended put up for orders

Rev Secy

6/11/24

Regr

5971/19.11

7 The petitioner may be sent to the Commr for his remarks.

22/11

24.11

8 Draft

Draft submd 24/11

24/11. 10. 1/12/24

To.

2 The Commr of Income Tax
No. 2933 & 4.12.24

Forwards the petition for favour of remarks.

3 From the same office
No. C 232 & 4.8.24

Forwards a copy of the report received from the Dy. Commr of Income Tax for Bangalore & Mysore in the matter & states that he generally agrees with the remarks.

1443/14/8

11 Subm. The remarks of the Commr are noted against Each item in the Statement for orders

12/8

2nd member

12

14/1

NOTE—Contn. Sheet

13. At the meeting held on Wednesday the 19th instant, it was decided that the D.J. Court should be asked to reduce the percentage assumed for calculating profits of Excise Contractors for income tax and that in the case of Grain merchants no action was called for.

14 May the D.J. Court be written to as above and the petitioners also informed accordingly with reference to this point in the representation. ~~The Petitioners~~ The petitioners may also be informed that the other points in the petition do not call for any ~~action~~ action

22/7/25

Revenue) ~~Should and order be taken~~ ~~of the opinion above and return~~ ~~of papers~~

A[15] The understanding arrived at at the meeting was that p.c should be revised in consideration of the general depression in the Excise business, the order to be issued to ~~Commissioner~~ Commissioner as such 'instead of as an order from Govt. Accordingly may also be sent to the petitioners. 2nd meeting

Serial No. 2/A 4/A

1838 25/8 Ex. Dept. The addressee may be informed accordingly. Draft for the Govt. see 26/8/25 26-8-25 27-8-25

Serial No

17 Please prepare draft of a Confidential letter to Comm mab 28/9/25

18 Draft submd WW 28/9 Rec'd mab 29/9/25

19 Thanthigathy raised the rate. Please keep a clean copy and submit to member with the relevant Rops. — h 29.9.25 mb

20. Subd. with a typed draft WW 3/10 Rec'd mab 1/10/25

2nd member h 2/10 mb

2175 2/9

Sig. issue

Where is the Meetings Rops & action taken on all points?

Lee 3/9/25 h

Sgd

4 Issued No: 1485 of 7.9.25 to the Comm of I.T. forwarding for information & needful action an extract from the proceedings of the Income-tax meeting held on 19.8.25 and requesting him to investigate into the matter of reducing the percentage of profits of Excise Contractors [illegible] rates of income-tax a[illegible]ent.

Note—Contn. Sheet

Serial No

23 The Commr of Income-tax was instructed to fix if possible a reduced percentage of profits in assessing Excise Contractors and to issue suitable revised instructions for the guidance of assessing officers and a copy of this circular was asked to be sent for approval of Govt.

May an enquiry be made as to the action taken? A draft enquiring is submitted for approval or other orders.

2.1.25

(Issued) 11/1

4 From The Commr of I.T to C.C and G 22.4.25

States that it would give sufficient relief if the percentages are reduced from 20 to 15 % respectively in the case of toddy & arrack & if this meets with the approval Govt, necessary circular will be issued Submd. for orders. The reduction recommended is only for toddy.

of computing profits of the I.C. Act

The 4 Deputy Commissioners are for reduction of rates by 5%. One Deputy Commissioner (Deputy Commissioner, Chitaldrug) is not sure whether any reduction is necessary and suggests a reduction of 5% if any reduction is to be made. Three Deputy Commissioners are in favour of allowing things to stand as they are while the

G. R. S. III-2]

WD 2310—GPB—10,000—31-5-24

General and Revenue Secretariat. 47 File No. 95 of 1924.

Serial No.

Deputy Commissioner, Kadur (Mr. G.B. Heblikar) has suggested a form in which returns may be obtained from Excise Inspectors in order to ascertain the actual profits incurred by the Contractors. For receipts he takes the yield in the case of toddy at so many seers per tree and obtain the value from by multiplying this with the Selling Price (the number of trees tapped). But the retail rate and also the yield are themselves variable factors. For expenses he has detailed the admissible items and it is seen that some of these items themselves are of a fluctuating character. Further the whole process appears to be a little too elaborate and at the same time the results obtained ~~merely~~ may be as unreliable as the turnover basis or the accounts furnished by the contractors, since the result is itself the product of several indeterminable factors. In view of these conflicting opinions we need not reduce the rates as suggested by the Deputy Commissioners and agreed to by the Commissioner. We may merely let the existing rates continue the assessing officers being requested to bear in mind the fact that in determining the profits of Excise contractors who have not produced accounts or whose accounts have not been accepte allowance has to be made to various factors

NOTE—Contn. sheet.

4194/25 8

G. R. S. III-2]

WD 2610—GPB—10,000—31-5-24

General and Revenue Secretariat. | 9·T File No. 85 of 1924.

Serial No.

such as unduly high bids, etc., which may require reduction in the turnover rates prescribed and they may be requested to allow reduction in the prescribed rates in deserving cases for reasons to be recorded by them.

B
15/5

Rev Sec)

27/5 The income tax officers are given discretion to reduce rates in deserving cases owing to depression in trade ~~[illegible]~~ ~~appear to be any reason to reduce~~ No further action will appear to be necessary. The ~~general principle~~ percentage adopted in calculating profits need not be altered.

CRos
20.5.26
By

2nd Member

196/2015

28/ When are the Centage rates laid down and on what basis were they fixed?

Mem
27/5/26

CRos
27.5.26.
By

A

29 Subd. Reference is invited to the Comm's circular of 26.9.22 in the matter of computation of profits in the case of toddy arrack. The Comm'r

NOTE—Contn. sheet.

General and Revenue Secretariat | G.T. File No. 25 of 1924

Serial No.

Has also instructed the I.T. officers to keep notes of useful information that may be disclosed by the accounts of assessees

29/5

B
8/6

2nd memb)

62V
8-6

30 The recommendation of the D.C. in para 3 of his letter dy 22.4.26 may be approved and he may be asked to take action to revise the present circular on this subject

Mrs
28/6/26

P.S. 31 If possible we may find out what rate in such cases are adopted in British India. Some of orders approving of DC's proposal to reduce rates need not wait until this enquiry is made

Mrs
28/6/26

B

32 Draft

B
29/6

33 Draft submd

W
29/6

Ry done

B
29/6

Serial No

5

To.

The Commr of Income Tax
No. 7L 28 & 2.7.26.

Informs of the suggestions & requests him to take action to revise the present circular & also Enquires what rates are adopted in British India

6.

From. The Commr of Income. Taxes
No: 1 & 19.7.26.

Forwards copies of letters from the Commrs of Income. Taxes Bombay & Madras in the matter & states that no average rates of profit have been fixed for computing the income of Excise Contractors in those Presidencies.

35 Subd: for perusal.

36 Refce: 2nd members minutes in para 31 of the notes.

Wdrn 23.7. 23726

Revd

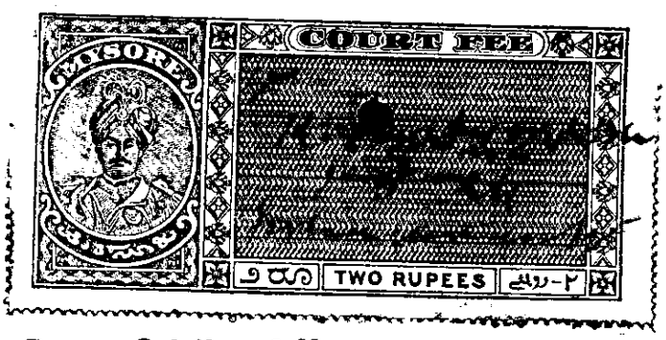
2nd member)

28.7.26.

2/8/26

OFFICE OF THE SECOND MEMBER OF COUNCIL
29 JULY 1926
No. 634

By Register 21/10/24



To,

The Dewan Sahib of Mysore,

BANGALORE.

[Earlily Signed petition of Excise contractors re arbitrary levy of Income tax on khists]

1601

Chitty
Esq
21/10/24

Rep 24

3/11

The humble memorial of the undersigned merchants and Contractors most respectfully showeth :-

1. That the undersigned are some of the Excise Contractors and merchants in the State and they present this humble memorial on behalf of themselves and on behalf of many other contractors and merchants who are unable to sign this on account of their absence from the place.

2. That they beg to bring to your Honour's kind consideration their grievances as to the oppressive way in which the Income Tax Regulation is applied to them. Regarding the Excise Contracts the Tax is levied not on the profits they derive from the business, but on the annual khists for which the Government rents out the shops to the Contractors. The profits are calculated at an exhorbitant and arbitrary percentage of the profits realised. This rule is most rigorously applied and no other consideration is of any avail.

3. Accounts most regularly kept and against which nothing can be said are rejected on some flimsy ground or other. The figures from the account books avail nothing at all. The arbitrary rule is mercilessly applied.

4. This works a great hardship on the Contractors as they are forced to pay the tax on an imaginary basis. To say the least of it the percentage profit rule is very oppressive and inequitable.

5. Some of the memorialists are also Contractors in British India and they have an experience of the way in which the Income Tax Act is worked there. So also in the C & M Station

C & M Station so near us. In Every Country the accounts ought to be the basis for levying the Tax. It is only in cases where the accounts are not produced or the accounts produced are unsatisfactory that Tax is levied after enquiring as to the profits realised by the assessees. Regarding the Piece Goods Merchants and Grain Merchants also accounts are discarded for no valid reasons whatever and profits are calculated on Turn Over basis. That again is arbitrarily applied.

6. The Memorialists humbly beg to submit that they are very much discouraged and their work will hereafter considerably suffer. Again the smallest delay in submitting accounts is taken advantage of to levy an arbitrary Tax and no delay however justifiable is excused and no fecilities are given to merchants in the matter.

7. The Memorialists humbly pray that the above facts may be kindly taken into consideration and their grievances redressed. The Department may be instructed that the account books ought to be the basis for the levy of the Tax and that the Tax should be levied accordingly. And that fecilities should be afforded to the public so that justice may be done to them and that they may not be unnecessarily prejudiced.

8. Again the recent rule published in the Gazette lays down that application for stay of ~~xxdxxx~~ proceedings should be made before the Assistant Commissioner or the Deputy Commissioner of Income Tax as the case may be. But such applications are useless as invariably no stay of proceedings is ordered.

9. Regarding Excise Contracts, some take them up in different places which cannot be worked by them. They are necessarily obliged to take the help of others. The Tax should under these circumstances be levied on persons who have taken them up from Government and not others.

10. In several instances necessary expenses incurred for efficient management of business and for collection of monies are arbitrarily scored off.

11. The petitioners therefore humbly pray that these and other grievances which have been so often brought to the notice of

13

of your Honour may kindly be redressed.

The undersigned beg to remain,

Honoured Sir,

Your Honour's most obedient servants,

Bangalore city

Dated

G. R. S. VI G-32]

B50—WD 0527

SUBJECT

Diary No. of letter replied to

General and Revenue Secretariat

( )

, the 192

Section I.T

File No. 25.24

Serial No 2

No. H 1933 Genl

Date of issue 1/12/24

Signed by M. M. A. Rajachar

To The Commr of Income Tax in Mysore

Sir

I am directed to forward the accompanying petition from the Excise Contractors & merchants in the State praying for redress of their grievances in the working of the I.T. Regn for favour of your remarks and very early return

I have etc

for Secy to Govt Rev. Deptt

over

I.T.66] 6838

In reply refer to
No. C. 232
Ens. 7 [illegible]

OFFICE OF THE COMMISSIONER OF INCOME-TAX IN MYSORE,

Bangalore..... 4th August ..... *192* 5.

Urgent.

FROM

V. R. THYAGARAJA AIYAR, ESQ., M.A.,
COMMISSIONER OF INCOME-TAX IN MYSORE.

PRIV. SEC. 11. AUG. 1925 SECTION

ARY NO. 6838
19 19
Section. I.T.
25-8-25
3.

K. V. Anantharaman, Esq., B.A.,
Secretary to the Government of Mysore,
Revenue Department, Bangalore.

Sir,

With reference to your letter No. Fl.2933/I.T.25-24-2 dated the 1st December 1924, forwarding for my remarks a petition from the Excise contractors and merchants in the State praying for redress of their grievances in the working of the Income Tax Regulation, I have the honour to state that a similar petition having been received in my office on the 11th October 1924, the report of the Special Deputy Commissioner of Income Tax for the Cities and Taluks of Bangalore and Mysore was called for in my memo No. C.232-24-25 dated the 14th idem. The report of the Deputy Commissioner has been received with his letter No. D.2.Dis. No 12/25-26 dated the 25th July 1925, a copy of which and of its enclosure are submitted herewith. I agree generally withthe remarks and conclusions of the Special Deputy Commissioner and beg to add that every endeavour is being made to make a fair assessment in the case of the petitioners.

2. Kind reference is invited to correspondence ending with this office letter No. D.1.Dis.16/23-24 dated 10th October 1923 in the matter.

3.

3. The enclosure to your letter under reply is herewith returned.

I have the honour to be,
Sir,
Your most obedient servant,

Commissioner of Income Tax.
5/8/25

Letter No. D.2.Dis. 12/25-26 dated the 25th July 1925 from Deputy Commissionerof Income Tax in Mysore, Bangalore, to the Commissioner of Income Tax in Mysore, Bangalore.

With reference to your official memorandum No. C.232/24-25 dated 25th October 1924 and subsequent reminders thereto, calling for a report on the memorial of some merchants and Excise con_ tractors, I have the honour to state as follows:-

The original referenc e had been taken away by my predecessor Mr. Heblikar and on reminders being received from your office, I had to remind Mr. Heblikar in the matter and I received the memorial only on 24th June 1925. As I wanted to give the subject some thought before sending a reply in the matter, I had to delay for about a month replying to this reference.

As regards the memorial itself, I have to state at the outset that the grievances mentioned therein are more imaginery than real. The memorial appears to me to relate specifically and more or less exclusively to the alleged grievances of the Excise Contractors. It is urged therein that although accounts are maintained in the usual course of business by these contractors their accounts are not usually accepted and tax levied on them on the basis of percentages on annual khists. From a perusal of the assessment files available in this office I find that in several if not in many cases, assessments are made on the basis of the accounts produced by these contractors, and in some cases the income declared by these contractors is accepted without demur. The fear therefore expressed by these contractors is to some extent groundless. As regards the cases in which assessments have had to be made on the percentage ~~of~~ basis, I understand that some sort of accounts had been produced for the inspection of the Income Tax Offi cers,

but

V6

but the accounts were not accepted for reasons almost invariably recorded in the assessment orders. In such cases, the assessees had the right of appeal and other remedies provided under the Regulation.

Apart from this, as regards the general question of Excise contracts and the adoption of the percentage basis, I wish to state that the following facts have to be borne in mind in dealing with the accounts maintained by the contractors.

There are two main classes of Excise Contractors viz., those who hold contracts for vending arrack and those who hold vending toddy. Among these again, we have two sub classes such as contracts for whole taluks and those who hold contracts for hold contracts for firkas or even individual shops. Instances are ~~rare~~ rare where individual or firka shop contractors make taxable profits and they do not seem to have any real grievance. The grievances narrated in the memorial are in my opinion mostly from the wholesale contractors. In their cases there seem to be special reasons why the Incometax Department should be more than ordinarily careful in dealing with the accounts produced; for, the Excise Contract is one which affords opportunities for concealing income and for realising income from sources which will not be traceable from the accounts maintained. It is needless for me to refer here to the enthusiasm that usually prevails at the Excise sales, the subterfuges that are adopted to suppress bids and secure contracts and the anxiety on the part of the old contractors to hold on to contracts they once held and the methods adopted by them to make good their losses by other than approved means. I wish to make the position clearer by recording the case of the toddy contractors who do business on a large scale. I had an opportunity of

of examining the accounts of one of the biggest toddy contractors in the State and I must say that so far as the accounts went, they were not impeachable in any real sense. On examining however the ittems of expenditure, I was surprised to find the large allowances claimed for various items several of which seems to overlap each other and the need for which certainly was not clear to me. I had also a confidential talk with an influential contractor as to why if he really suffered losses, he still held on to the same old contracts; and he mentioned to me the reason, which seemed to indicate the weakness of the system of wholesale contracts, viz., that when once a big contract had been taken up, large initial expenditure had to be incurred and large numbers of persons had to be employed and they had to be kept on as retainers whether the business prospered or suffered, whether the area of contract taken up in subsequent years expanded or contracted, and that on account of the investment already made it would become a matter of necessity to continue the business at any cost. This admission virtually meant that the expenditure on establishment was not really proportionate to the needs of the contract but on a scale which the contractor could not avoid keeping on irrespective of the nature or extent of the contract he was engaged in. This is how the expenditure side of the Balance Sheet is usually inflated in the case of these contractors. Further from a comparison of the account of different contractors of the same class it was noticed that the expenditure items differed widely in different cases. There is thus no fixed standard of expenditure for a specified area or a fixed quantity of supply. This seems to me to be the first and most important defect in this business and consequently in the accounts maintained for the business.

W

Secondly, it is the usual practice with several of the contractors to advance monies to tappers and at the end of the year to write off outstandings against the tappers as bad debts. It is really doubtful if such bad debts are actually written off although the books may show their having been written off. For it so happens that the same contractors take up contracts from year to year in almost the same localities and it is obvious that the services of the tappers are continued from year to year as it is only reasonable to expect that the tappers who become used to one employer continue to serve the same employer and get re-employed by him over and over again. It is next to impossible to detect such cases of re-employment. It would be difficult to wait for a whole year to find out if persons who had once been treated as bad debtors are taken back as employees. Then again it is doubtful if all the tappers really get fully paid as the tappers generally seek employment more for the perquisites they enjoy such as illicit tapping of trees and tree-foot sales and such like malpractices which can never appear in the accounts but which none the less take place with the connivance or through the negligence of the Excise menial staff. Although in the case of very respectable contractors, these perquisites may not count, it cannot be said that others do not share in the profits from such mal-practices. It is because of these difficulties one is led to treat the account books maintained by these contractors as not disclosing the real profits of the concern but only maintained for the sake of satisfying the requirements of the Excise Department or hoodwinking the Income Tax authorities.

As regards Arrack Contractors, the case would seem to be no better. What they would have us do is to calculate at the maximum rate the selling price of arrack issued to them

them from the Distillery or Bonded Depots as the case may be and to deduct therefrom the issue price, the duty paid and the shop rent and a few minor charges incidental to the business. On the face of it there does not seem to be anything objectionable in this arrangement, but here again there are cases where wholesale contractors sublet shops to smaller holders from whom they receive payment out of which they pay their khists to Government. Such arrangements of course are prohibited and not countenanced by the Departmental rules. These contractors suffer losses only when their lessees fail to pay them or defraud them. To the officials of the Excise Department, these lessees are held up as employees of the principal contractors and no one is wiser for the internal arrangements existing between employer and employee. In addition to these, adulteration and short-measurement of the liquor sold add their own small profits to the concern. When Kutcha Patties of sales and income in each shop are asked for from the contractors, they are either not produced or some lame excuse offered for their non-production. In view of these difficulties, wherever the accounts indicate that the expenditure is unnecessarily high or that the losses shown are not in accordance with the actual facts ascertained from local enquiry, the Income Tax Department cannot but proceed upon the percentage basis and I think there is far greater justification for us especially in this kind of business - to proceed upon percentage basis than on the profits or losses disclosed in the accounts produced. Although it might appear as a piece of casuistry, it cannot be said that when bids are accepted at Excise sales, the officers are unmindful of the margin of profit allowed to the contractors and it is only this margin that we are trying to tax. As a matter of fact, some contractors even express a desire to be taxed on the percentage basis provided the rates are lowered to some extent.

In the above paragraphs some of the difficulties and dangers that are to be met with, in acting upon the accounts maintained and produced by the Excise contractors have been indicated. I only wish to add that notwithstanding these drawbacks, and as a matter of fact, in practice, the accounts produced by the contractors are not being summarily rejected as alleged in the petition, but in many cases, the declared profits are accepted with or without modifications according to the merits of each case and when they are not so accepted, reasons are recorded for adopting the turnover basis. In these circumstances, I do not think any specific action is called for on the petition itself. I would on the other hand urge that so far as these contractors are concerned it would be better to make them understand that they should not complain against the adoption of the percentage basis, as at the time the bid is offered, the contractor necessarily includes his margin of profit; otherwise, it would lend colour to the supposition that unhealthy bidding goes on and is being encouraged at Excise sales and in order to avoid losses malpractices are resorted to by contractors and are overlooked by departmental officers.

I append a note containing my remarks on each of the paragraphs contained in the petition. The petition in original is herewith returned.

'Copy'

For Commissioner of Income Tax.

REMARKS ON THE SEVERAL PARAGRAPHS OF THE MEMORIAL.(Made by the Special Deputy Commissioner of Income Tax)

Paras 2, 3 & 4.-

Relate chiefly to the grievances of Excise Contractors. Much of what is expressed here is imaginary. Kind attention is invited to my letter. As regards percentages, these are fixed by the Commissioner after due consideration. The Commissioner's circular clearly authorises variation in deserving cases. Each case has to be disposed of on its merits and no hard and fast rule can be laid down. The accounts are not summarily rejected. When rejected good reasons are assigned and the usual remedies under the Regulation are open to aggrieved parties.

PARA 5:-

I do not know exactly what the procedure is in British India. But I believe the provisions of the Income Tax Act are much more rigorously applied there than here. Considering the apathy and indifference displayed by the potential and actual assessees, I feel that the departmental officers are treating them with more sympathy and generosity than they deserve.

PARA 6:-

Reasonable extention of time is allowed in deserving cases. Where there is persistent delay, action has to be taken without waiting for the assessee's convenience to produce accounts. The circular orders of the Commissioner require assessments to be completed within a specified time and it would be impossible to give effect to these orders if every application for grant of time to produce accounts or returns is complied with. I would invite the Commissioner's kind attention to the Madras Commissioner's circular in this connection.(Vide Circular no XXVII of the Income Tax Commissioner-Madras. Copy enclosed)

Para 7:-

Repeats what is already urged in the other paragraphs.

PARA 8:-

Stay of proceedings may be complied with only when the assessing officer knows that the appellant has a fair chance of success before the appellate authority. If the concession is granted as a matter of course, collection work will be jeopardised and arrears will accumulate to an unmanageable extent. In this connection, also, I invite reference to the circular issued by the Commissioner of Madras to the assessing officers there. (Vide Circular no XVI of the Income Tax Commissioner, Madras. Copy enclosed

PARA 9:-

Regarding excise contracts, my letter deals fully with the subject. The system of taking up contracts in the names of others or bidding for others, seems to be widely prevalent although the departmental instructions discountenance such benami transactions. For violating the rules in force, the delinquents should pay the penalty. They deserve no favourable treatment.

PARA 10:-

As regards necessary expenses, it is purely a matter of discretion and ~~would~~ we should trust our assessing officers to exercise their best discretion in the matter. Where such discretion has not been exercised properly, the appellate authorities may be trusted to rectify the mistakes. It therefore calls for no special action.

Sd/- B. T. Kesaviengar,
Dy. Commissioner of Income Tax.

'Copy'

For Commissioner of Income Tax.

OFFICE OF THE COMMISSIONER OF INCOME TAX, Madras.

R. Dis. No.1156/23 Dated the 14th April 1923.

CIRCULAR No. XXVII.

Accounts - Notice calling for the Production of - Act XI of 1922 - Section 22(4).

The attention of all Assessing Officers is invited to the fact that under section 22(4) a notice calling for the production of specified accounts or other documents may be issued to (1) the Principal Officer of a Company or to (2) any person upon whom a notice under section 22(2) has been served without waiting for the return of income itself. The Commissioner is inclined to think that this power, if used with discretion, may prove very useful and may save a great deal of time and obviate congestion of work towards the end of the year. There is often a great deal of delay in securing returns. Assessees ask for extensions on various pretexts. The Commissioner therefore suggests that it might be well in many cases, at all events, to issue notices calling for accounts, as soon as the notice calling for the return of income has been served. The date for the production of accounts should be fixed in each case with reference to a systematic programme so that the checking staff may have a regular work, but that, as far as possible, congestion and the consequent retention of individual sets of accounts for undesirably long periods may be avoided. If an assessee who has been called on to produce his accounts of this statement is duly found by a reference to the auditor for audit and the latter says that he has given them to an approved auditor, the production of accounts should not be insisted on unless after a reasonable time has elapsed, no audit report is forthcoming. The date fixed for the production of accounts should, of course be later than the date on which the return is due. If an

an assessee os granted an extension of time for making a return, a corresponding extention of time for the production of accounts may also be allowed. Even when this has to be done, a great deal of time will, the Commissioner believes,be saved by the procedure suggested.

Sd/- A. Tottenham,

Commissioner.

To
All Assessing Officers.

'Copy'

For Commissioner of Income Tax.

OFFICE OF THE COMMISSIONER OF INCOME TAX

R. Dis. No. 168/23 Dated the 20th January 1923.

Circular No. XVI.

Incometax - Recovery - Appeal - Suspension of collection - Incometax Manual - Instructions - Para 83.

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The instructions in the paragraph quoted above appear to have been misunderstood. They do not mean that whenever an appeal is filed or even whenever a bona fide appeal is filed so much of the tax as in dispute should be suspended till the appeal is disposed of. They only mean that if an appeal is filed and the Income Tax Officer thinks that it is a fit case in which to exercise his discretional power to suspend collection, he should only do so in regard to so much of the tax as is in dispute. The Commissioner considers that the collection of tax should not be suspended even partially, unless the sum involved is considerable and it is clear that the assessee has a very good chance of succeeding in his appeal. The Commissioner would also once more emphasize the fact that under section 45 of the new Act as under the old Act, it is the assessing officer and not the appellate authority who has discretion to suspend collection. The appellate authority has no power to direct the Income Tax Officer to suspend collection. In no case should collection be suspended pending the disposal of a reference to the High Court. Under section 66(7) (proviso) the Commissioner may allow interest on the amount of any refund to which the assessee may become entitled as the result of a reference.

Sd. A. Tottenham,

Commissioner.

To- All Assing Officers.

for Commissioner of Income Tax

App.F.VI-G1.]

B650

SUBJECT

Section G.T.

File No. 25-24

Serial No. 4

No. H 1485/Ec.,

Diary No. of letter replied to

General and Revenue Secretariat

( )

, the *192*

Date of issue 7.9.25

Signed by Jm B.S.R.

To

The Commissioner of Income Tax

in Mysore.

S i r,

With reference to the correspondence ending with your letter No.C.232 dated 4th August 1925 in regard to the petition of Excise contractors and merchants in the State praying for redress of their grievances in the working of the Income Tax Regulation, I am directed to forward for your information and needful action an extract relating to the subject from the Proceedings of the Income Tax Meeting held in the Second Member's Chambers on the 19th ~~inst.~~ August. The computation of profits at a minimum of 10 & 20per cent on the rental of arrack & toddy respectively paid to Government for

over

List of enclosures

Copied by

Examined by

urposes of income-tax assessment when no

accounts acce table to the Income Tax Officer

are produced by the assessee- vide your circular

No.I2/is.105/22-23 dated 26th September 1922 -

may, under present conditions, work hardship in

view of the general depression among Excise busi-

nesses. I am therefore to request you to make an

investigation into the matter, and fix, if possible,

a reduced percentage which may be found reasonable,

and issue suitable revised instructions for the

guidance of assessing officers . A copy of your

revised circular may be sent for approval of Government.

I have etc.,

Secretary to Govt.,

Revenue Department.

Memorial of
Excise contractors
& Grain merchants.

The Commr of
Income Tax should
be instructed to
reduce the percentage
assumed for profits
in assessing Excise
contractors. No action
was called for in
the case of Grain
merchants

Extract

44372

G.T. 26-24-4 37

I. T. 66]

In reply refer to
No. 200-25-16
Enc. One

OFFICE OF THE COMMISSIONER OF INCOME-TAX IN MYSORE,

Bangalore 22nd April 192 6

FINANCIAL SECRETARY
28. APR. 1926

FROM

B. Ramaswamaiya, Esq., B.A., B.L.,
COMMISSIONER OF INCOME-TAX IN MYSORE.

NO. 4194
19
Section.
File F.

GEN. & T. SECTT.
26 APR 1926
G. D. SECTION.

B. Nagappa, Esq., Bar-at-Law,
Secretary to the Government of Mysore,
Local and Legislative Departments.

Sir,

With reference to your letter No. Fl.1485 dated 7th September 1925 asking me to investigate into the complaint of the Excise Contractors regarding the percentages now adopted on the rentals paid by them for calculating the profits for income-tax purposes, and requiring me to fix a reduced percentage and to issue circular instructions in the matter, I have the honour to state that the opinions of the Deputy Commissioners of Income Tax have been obtained. The general opinion is that of late there has been an unhealthy competition in Excise contracts due to rivalry, and as an example, the case of the Bombay contractors in Mysore has been cited. These latter are stated to have taken up the contract in Mysore only out of spite against the Mysore contractors who seem to have bid against them in Dharwar and other places. Under such unhealthy competitions it is stated that profits cannot be properly calculated at a certain specified percentage of the rentals. All the Deputy Commissioners except the Deputy Commissioner, Kadur District, are however in favour of calculating the profits of the contractors by taking a certain percentage of the rentals. The Deputy Commissioners of Tumkur and Shimoga Districts and the Deputy Commissioner of Income Tax, Bangalore and Mysore Cities and Taluks are of opinion thatthe

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the rates now fixed (viz. 20% for toddy ... r arrack) may be continued as the assessing officers have power to reduce the percentage according to the circumstances of each case. Other Deputy Commissioners propose a slight reduction in the percentage now adopted as noted below:-

	Reduction proposed in the present percentage. Arrack	Toddy.
Deputy Commissioner, Bangalore District. ..	By 5%	By 10%
" Mysore District ..		" 5%
" Hassar District ..		" 5%
" Chitaldrug District ..		" 5% or no reduction.

2. The Deputy Commissioner, Kadur District, points out in his letter No. I.T.47/25-26 dated 24th March 1926 (copy enclosed) that the profit of the Excise Contractors who have not maintained proper accounts may be ascertained by calculating the probable receipts and deducting therefrom the necessary working expenses. At best the result obtained by this method can only be a very approximate estimate and might not prove satisfactory or feasible in working.

3. The profit of the Excise Contractors who have not maintained proper accounts which in the opinion of the Income Tax Officers afford a reliable basis for the determination of the income, should in my opinion be calculated on some basis and as this has been all along calculated on the amount of rentals, I think that it would give sufficient relief to the Contractors if the percentages are reduced from 20 and 10 to 15 & 10 respectively in the case of toddy and arrack. The Income Tax Officers should however be given a wide discretion to reduce these rates in deserving cases for reasons to be clearly recorded in their orders. If Government approve of the

33

the reduction in rates now proposed, necessary circular will be issued.

I have the honour to be,
Sir,
Your most obedient servant,

S Ramaswamy

Commissioner of Income Tax.

b.m.

Letter No. I.T.47/25-26 dated the 24th March 1926 from the Deputy Commissioner of Income Tax, Kadur District, to the Commissioner of Income Tax in Mysore, Bangalore.

With reference to your letter No. C.200/25-26 dated 12th September 1925 regarding the desirability of revising the present method of calculating profits of Excise Contractors (who do not maintain or do not produce accounts) for income-tax purpose, I have the honour to state as follows:-

2. Arrack, Opium, Special Liquor and Ganja Contractors:- There ought to be no difficulty in computing the profits of these contractors. They purchase articles from Government at fixed rates and sell them at their own rates subject to certain minima fixed by Government. The rates at which the articles are sold locally can be easily ascertained from the Amildars and Excise Inspectors. The gross receipts can be ascertained by multiplying the quantity sold by the retail rates. The net profits can then be arrived at by allowing deductions for the following items:-

(i) Khist amount
(ii) Shop rent,
(iii) Transport expenses (to be minutely examined & passed)
(iv) Contingencies, such as oil, cleaning charges etc. (not exceeding 3 per cent of the total expenses)
(v) Vendors' charges(to be vouched for)
(vi) Interest (if any) paid to others and supported by vouchers.

3. It is well-known that arrack contractors make considerable profits by malpractices, such as, giving short measures and diluting the liquor. If the Income Tax Officer has reason to believe that a contractor concerned habitually resorts to such malpractices he will be perfectly justified in taking into consideration this fact in fixing his assessable profits. Even

Even a criminal habitually ~~resort~~ making a living by ~~khax~~ thieving will have to pay income-tax if his income (including the proceeds of theft) is above the taxable minimum. A fortiori-Excise Contractors who merely break fiscal laws will have to pay income-tax if by malpractices they earn taxable income.

4. There is no difficulty in arriving at the taxable income of those contractors who maintain regular accounts and at the same time produce books written in the usual course of business from day today before the Income Tax Officer. What most contractors, however, do is to produce before the Income Tax Officer, some statements prepared without reference to the actual accounts. The Katcha books which alone can be deemed to be reliable are never produced. In such circumstances the Income Tax Officers are compelled to make assessment on the basis of the khist paid.

5. Personally I am averse to making assessments on the khist paid especially in those cases in which the khists are increased at auction sales in unhealthy competition. Where however there are no sufficient data and accounts produced are unreliable or are wilfully withheld, the Income Tax Officers have no other alternative but to assess on the best available information at rates varying from 15 to 20 per cent on the khist amount. As practically all Income Tax Officers are Excise Officers as well they ought to be able to make reasonable assessments in every case by consulting their Excise subordinates and departmental registers.

6. <u>Toddy Contracts</u> ~~xxx~~ What I have said about the production of Katcha books (i.e. "Day Books and Ledgers") by the arrack contractors applies to the toddy contractors as well.

7. There are two classes of toddy contractors viz:- Contractors who own single shop and contractors who hold groups of

of shops or entire taluks.

(1) Single shop contractors:- These contractors do no ordinarily maintain accounts of the quantities of the toddy received from the groves from day to day and sold in the shops. Taking good and bad trees into consideration the average yield per tree may be taken to be 3 to 5 seers per tree per day (according to the locality of the groves). The period of tapping is four months and as trees are tapped on alternate days the total yield for the whole period will be(60 x 3 to 5 seers) i.e. 180 to 300 seers. The gross income will, therefore, be equal to the no. of trees tapped X 60 x quantity of toddy per tree / retail rate

The net income is arrived at by allowing deductions for the following items:-

i. Government shop rental for 12 months
ii. Tree tax, tree rent etc. on each tree which may be roughly taken at Rs 3 per tree;
iii. Tappers' wages at the rate of one tapper for every 60 to 100 trees. Wages in this District range from Rs 16/- to 20/- per month per tapper. If the shop keeper is an Ediga he and his family tap the trees and save this item of expense.
iv. Transport charges:- In case of single shops the maximum distance between the grove and the shop is 8 to 10 miles: carthire per mensem will be about Rs 40 if a cart-load of toddy is transported every day. The cost will be very much less if toddy is transported on an ass or a pony.
v. Vendors' charges:- At the rate of Rs 15 to 20 per mensem. A single shop keeper generally saves this by employing a member of his family to vend liquor.
vi. Watchman (if necessary):-Say Rs 10 per mensem. Experience shows that the contractors of single shop spend at least as much on items iii to vi as on item No. ii.
vii. Interest vouched for (if any).

Details relating to items iii to vii have to be worked out by local Excise and Income Tax officers in the light of experience and explanations, if any, tendered by the contractors on the valuations made by the local officers.

(2) Group or Taluk contractors:- While a few contractors

contractors work all the shops purchased by them, the majority sub-lease some out-of-the-way shops privately and manage only a convenient group for themselves. Calculations have, therefore, to be made separately in respect of each set as in the case of a single shop contractor. Though private sub-leasing is not permissible under the Excise Rules, as it is winked at, and has become an established practice, it has to be acknowledged for the income-tax purposes.

In addition to the items to the expenditure noted against single-shop system described above, the following extra expenditure may have to be allowed in the case of group contractors:-

i. Transport charges ₹ 50 per cart for every additional 8 miles from the grove on the number of carts in daily use. In case the transport is done by Railway the payment tothe Railways will be taken into consideration.

ii. Travelling Gumasta from ₹ 25 to 30 per mensem;
iii. Accountants up to ₹ 25 to 30 per mensem.
iv. Vana-mutsaddi for each grove on ₹ 25 to 30 per mensem.
v. Contingent charges not exceeding ₹ 50 per mensem.

These additional items of expenditure, if claimed, may be allowed if the Income Tax Officer is satisfied that they have been actually incurred. In some cases it so happens that the sub-lessee makes fixed monthly payment to the contractor irrespective of his own profits. In these cases the sub-lessees will have to be assessed separately and the contractor on the actual amounts received by him from his sub-lessees.

8. I would suggest that the Excise Inspectors should be asked to submit the above information on printed forms to be supplied to them at the beginning of the year by the Income Tax Department. It will be seen from what I have said above that it is very easy to prescribe such a form and obtain the requisite information in the shape of a tabulated statement.

'Copy'

For Commissioner of Income Tax.

9.T.25.24.5 38

G. R. S. G/33]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

H 28/ dated 2.7.26.

To.

The Comm^r of Income Tax

Sir,

With reference to the correspondence ending with your letter no. C 200 of 22.4.26 in regard to the percentages adopted for calculating the profits of Excise contractors for Income Tax purposes, I am directed to convey the approval of Govt. to the suggestions made in para 3 of your letter under advertance, and to request you to take action to revise the present circulars in the matter.

I have etc

Asst
for Secy to Govt
Rev. Delhi

In this connection I am desired to enquire what ratsare adopted in Bo. India. An early reply is requested

WD 2230—GPB—1,00,000—23-7-20

I.T. 68]

In reply refer to
No. D.1..Dis.4../26-27
Encl. One

OFFICE OF THE COMMISSIONER OF INCOME-TAX IN MYSORE,

Bangalore the 19th July.... 1926.

FINANCIAL SECRETARY'S 22 JUL 1926

GEN. & REV. SECT. 20. JUL. 1926 G. D. SECTION.

DIARY NO. 962

19 — 19
Section.
File No.
Serial No.

FROM

B. Ramaswamaiya, Esq., B.A., B.L.,
THE COMMISSIONER OF INCOME-TAX IN MYSORE.

To

C. Ranganatha Rao Saheb, Esq., B.A., B.L;
Secretary to Government of Mysore,
Revenue Department, Bangalore.

Sir,

With reference to para 2 of your letter No. Fl. 28 dated the 2nd July 1926, I have the honour to enclose for information of Government copies of letters No. L.Dis.913/26 dated the 11th July 1926 from the Commissioner of Income Tax, Madras and No. Adm.172/26 dated 14th July 1926 from the Commissioner of Income Tax, Bombay, ~~from~~ for which it will be seen that no average rates of profit have been fixed for computing the income of excise contractors in those Presidencies.

I have the honour to be,
Sir,
Your most obedient servant,

B. Ramaswamaiya

Commissioner of Income Tax.

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Copy of letter No. L. Dis. 913/26 dated 11th July 1926 from the Commissioner of Income Tax, Madras, to the Commissioner of Income Tax in Mysore, Bangalore.

Assessment (Incometax) - Abkari contractors who do not maintain accounts - method of determination of profit - Your letter No. C.200/25-26, dated 7th July 1926.

No average rates of profit have been fixed for computing the income of abkari contractors. Assessment is made by taking into consideration such factors as these :- (1) the amount of rentals (2) the number of gallons sold (3) the average sale price (4) the price paid for arrack from the depot or for his tapping for toddy. I consider it impossible to fix any average rate of profit. Profits vary for each shop according to local conditions.

Copy of letter No. Adm 172/26 dated 14th July 1926 from the Commissioner of Income Tax Bombay, to the Commissioner of Income Tax in Mysore, Bangalore.

Income-tax - Assessment of Excise contractors- Average rates of profits for - Fixation of-

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In reply to your letter No. C.200/25-26 dated the 7th July 1926, I have the honour to state that the Commissioner has not issued any orders fixing average rates of profit for this Presidency for computing the income of Excise Contractors who do not keep accounts for income-tax purposes. The matter is left entirely to the discretion of the assessing officers.

" C O P Y "

For Commissioner of Income Tax.

Rdl

Complaints.	Existing practice or orders.	
Levy of the tax on the annual basis for which the Govt. rents out the Shops.	This course is adopted only when the accounts are not properly maintained (Vide circular of the Comm^r dt 26.9.22).	That is when turn over basis has to be adopted. When accounts are properly kept & produced, they are of course adopted. 6/11/24
Rejection of accounts produced on flimsy grounds.	Govt. have issued clear instructions in the matter. It has been ordered that accounts produced by the assessee should not be rejected & the turn over basis adopted unless there are good grounds, which should be placed on record, to consider them unreliable & unworthy of acceptance (Vide para 5 of G.O. no. Rl 5996-6005 dt 28.4.24) G.T 35-23-5	This order sufficiently safeguards the interests of assessees and individual cases of hardship if at all can be redressed only on appeals preferred. 6/11/24
Delay in taking & submitting accounts is taken advantage of to levy tax arbitrarily.	Extension of time for the production of accounts has been given in many cases, as was seen in the several revision cases that came up before Govt. The Comm^r has reported in another connection that in all bona fide cases reasonable extensions of time	The Govt. have assured that all bona fide cases are dealt with considerably. Arbitrary assessments & the kind of complaints of many be avoided by the assessees themselves by applying in proper time for extension of period allowed in the Notice for submission of returns and accounts. 6/11/24

~~Transfers & ordrs~~
~~thro y^e Comm^r y^e Income Tax~~
~~Dy. Comm^r of I.T. for Bangalore~~
Mysore

orders

Percentages are fixed by th
after due consideration. Each
is dispersed on its merits.
Reviewer accounts are rejected
fr cent reasons are given -

-asonable extention of time is
d to deserving cases when there
persistent delay action has to be
without waiting for the assessees'
-nience for the submission of
unts -

4.	Comm^{r} circular empowering the assessing officers to suspend the collection of taxes in cases of appeal.	This seems to have been issued as per wordings of Section 45 of the I.T. Rep^{n}. In the R.A. meetings, it was represented that this circular should be withdrawn & the reply of Govt. was that the matter ~~will be~~ would be investigated, [The connected file has referred to the L.L. Secy for opinion).	In view of the proviso of clause 7 of Section 46 of the I.T. Rep^{n} it is necessary that the I.T. Officer who is responsible for the Collection of the tax — whether assessment by himself or by the Dy Comm^{r} or the Comm^{r} himself should have absolute discretion in the matter of stay of proceedings for Collection of tax. The provisions of Secti 66 (7) may be compared in this Connection. Proviso is made in this Secti ~~to~~ even a reference to the Taxing Court not in any way stopping the Collection of tax assessed. Then is therefore nothing in the Comm^{r}'s circular which could be ~~of~~ ~~necessary~~ the Dept the power of withdrawal recommended by some assessees & Rep. 7 if a taxpayer is not entertained by the assessing authority.
	The tax levied should be recovered only from the persons who have taken up Excise contracts and not from those who help them in their work.	If the contractor is not easily to be found, the tax has to be recovered from his agent or other person who is connected with the work (Vide Section 40 of the Rep^{n}).	The request is not reasonable and cannot be granted. mat 6/11
	Disallowances of necessary expenses incurred for the efficient management of business & for collection of moneys due.	Under clause 2(ix) of Section 10 all expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of Earning such profits or gains are allowed; i.e. Salaries to staff, wages to workmen, printing & Stationery, postage & telegrams, travelling expenses, commissions, discounts, allowances legal charges, office rent, rates, taxes, advertisements & all other expenses incidental to the business are allowed, while arriving at the net asse	It is not all expenses that can be allowed as deduction. The rules are explicit on the point and do not admit of any doubt or difficulty. Nor cannot be any thing in the working of the rules which would call for ~~special~~ orders at the hands of Govt. mat 6/11/24

~~Vide opinion against item (2)~~ Stay of proceedings is granted by in cases where there is a fair chance of the appellant before the appellate thority. If concession is granted ll cases, collection work will be aridised & arrears will accumulate. ially as there is the option of ctalin appeal Govt provided for in Rules).	orders -
~~ver of as parties are asked to get refunds if their appeals succeed~~ ness the Cases n the ents ever of E	
This is a matter to be left discretion of the assessing officer. If such discretion has not been exercised properly, the appellate thorities may be trusted to rectify mistake.	